

*See 23 July 1953* *Refile*  
**Office Memorandum • UNITED STATES GOVERNMENT**  
**\*OGC Has Reviewed\***

TO : General Counsel DATE: 31 July 1953

FROM : [REDACTED] 25X1A9a

SUBJECT: Steps Necessary Under Executive Order #10450

1. You will recall my memorandum to you dated 23 July 1953 on this same subject. Shortly after that date, you suggested to me that I discuss my proposed changes in the outline submitted to this office by [REDACTED] with him. 25X1A9a

2. At 2:00 p.m., 30 July 1953, I did discuss these proposed changes with [REDACTED] in his office. At the conclusion of our conversation, it was his position that the proposed changes be adopted and that they be incorporated in a revised version of the outline of steps necessary. He is undertaking such revision at this time and, so far as is known, will not resubmit them to this office.

3. Unless I hear further, either from you or [REDACTED] on this matter, I shall consider it closed. 25X1A9a

23 July 1953

Memorandum for: General Counsel

From: [REDACTED]

25X1A9a

Subject: Review of "Outline of Steps Necessary Under Executive Order 10450" and Changes Proposed

Reference: Outline of Steps Necessary Under Executive Order 10450, submitted to this office by the Chief, Security Division

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1. Pursuant to your verbal request of 14 July 1953, I reviewed the "Outline of Steps Necessary Under Executive Order 10450" submitted to this office by [REDACTED], Chief, Security Division.

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2. From the discussion of this matter with [REDACTED], I learned that his outline was taken from CIA [REDACTED] dated 27 May 1953. As you know, this regulation is one which was proposed in blank form by the Justice Department pursuant to paragraph 13 of Executive Order 10450 dated 27 April 1953. Further, the general substantive provisions of the proposed regulation are taken from the Internal Security Act of 1950, 64 Stat. 746, 5 USC 22.

3. On the basis of the CIA Regulation quoted, I propose that the following changes be made in the submitted outline:

(A) In column 2, step 4, that the period after the word "charges" be deleted and the phrase "to General Counsel" be added and followed by a period. This change seems indicated by Section 5(f) of CIA [REDACTED]

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(B) In column 2, step 5, that a comma be inserted after the word "recommendation", appearing in line 6, and the phrase "or, in case of disagreement, separate recommendations", be inserted and that the word "(are)"

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be inserted after the word "is" in the 7th line of that step. This change seems indicated by Section 5(f) of CIA [REDACTED]

(C) In column 4, step 3, that the sentence "Amendments thereto may be made within 30 days of date of original issuance." be added after the word "charges" in line 4 of that step. This change seems indicated by Section 1 of 64 Stat. 746 (1950).

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(D) In column 4, step 4, that the phrase "or amendments thereto" be inserted after the comma following the word "notice" in line 4, of that step. This change seems indicated by Section 5(h)(2) of CIA [REDACTED]

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(E) In column 4, step 5, that the changes proposed in subparagraph (B) above be also accomplished. These changes seem indicated by Section 5(b)(2) of CIA [REDACTED]

4. In passing, it is noted that the CIA Regulation makes certain departures from the basic statute. Illustrative of these are the following:

(A) The word "described" is Section 5(b) of the regulation seems to limit the types of derogatory information indicative of a security risk to those specifically set out in the statute whereas the statute provides that these types are indicative but not definitive.

(B) Section 5(e) of the regulation makes it mandatory that an employee who is not a permanent employee be notified in writing of the reasons for his suspension. The statute makes such notification for such an employee discretionary.

(C) Section 5 (g)(1) of the regulation provides that a reinstated employee shall be compensated for the period of his suspension. Section 1 of the statute provides

that such compensation will be a factor of pay lost diminished by interim net earnings.

I do not feel that any of these departures constitute serious ones; but I bring them to your attention for your consideration.

5. Upon a review of the statutes from which the President states his authority in Executive Order 10450 to be derived, some questions are raised which are not explicitly answered by the CIA Regulation. Thus, one wonders whether suspension accomplished pursuant to paragraph 6 of the Executive Order is subject to the same procedural requirements as a suspension accomplished pursuant to the Internal Security Act. That statute specifically provides that its procedures shall be observed for suspensions pursuant to the authority of that act only. Common sense would indicate that the same procedures apply. But specificity for this assumption is lacking. Also, it is a question as to whether or not a person removed from a "position or office held by him" under Section 9. A. of 53 Stat. 1147, the so-called "Hatch Act", is subject to the same procedural requirements as one suspended, and possibly terminated, under the Internal Security Act. Again, common sense and considerations of fair play would indicate that the procedures apply. This unless the prerequisite of violation of Section 9. A. (1) of the Hatch Act be construed as embodying a voluntary admission to membership in a subversive organization or as a finding of such a membership by a jury.

6. In my opinion, if the changes recommended for the outline set out in paragraph 3 above are adopted, then such outline, supplemented by reference to CIA [REDACTED], constitutes a sufficient ready reference for the procedures to be followed in suspension cases under Executive Order 10450.

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Attachment

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ORIGINAL DOCUMENT MISSING PAGE(S):

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